

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

DIEBOLD, INC.,	:	
	:	
Plaintiff,	:	HONORABLE JOSEPH E. IRENAS
	:	CIVIL ACTION NO. 07-1991 (JEI)
v.	:	
	:	
CONTINENTAL CASUALTY CO.,	:	<b>ORDER GRANTING IN PART AND</b>
	:	<b>DISMISSING AS MOOT IN PART</b>
	:	<b>DEFENDANT'S MOTION FOR SUMMARY</b>
Defendant.	:	<b>JUDGMENT (Docket # 85); DENYING</b>
	:	<b>PLAINTIFF'S CROSS-MOTION</b>
	:	<b>(Docket # 89); and DENYING AS</b>
	:	<b>MOOT PLAINTIFF'S MOTION FOR</b>
	:	<b>SUMMARY JUDGMENT (Docket # 90)</b>

**APPEARANCES:**

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and

COLLIAU ELENIOUS MURPHY CARLUCCIO KEENER & MORROW  
By: Edward Delesky, Esq.  
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Counsel for Defendant

**IRENAS**, Senior District Judge:

This matter having appeared before the Court upon  
Defendant's Motion for Summary Judgment (Docket # 85),  
Plaintiff's Cross-Motion for Summary Judgment (Docket # 89), and

Plaintiff's Motion for Summary Judgment (Docket # 90), the Court having considered the parties' submissions, and for the reasons set forth in the Opinion issued on even date herewith, which findings of fact and conclusions of law are incorporated herein by reference, and for good cause appearing;

**IT IS** on this 21st day of June, 2010,

**ORDERED THAT:**

(1) Defendant's Motion for Summary Judgment (Docket # 85) is hereby **GRANTED** as to its "discovery" defense and as to Plaintiff's bad faith claim. The Motion is **DISMISSED AS MOOT** in all other respects.

(2) Plaintiff's Cross-Motion for Summary Judgment (Docket # 89) on Defendant's "discovery" defense is hereby **DENIED**.

(3) Plaintiff's Motion for Summary Judgment (Docket # 90) is hereby **DISMISSED AS MOOT**.

(4) The Clerk of Court is hereby directed to **CLOSE THIS FILE**.

s/ Joseph E. Irenas  
Joseph E. Irenas, S.U.S.D.J.